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U.S. Attorney Testifies Before Senate Subcommittee, Highlights Success of Financial Fraud Task Force And Mortgage Fraud Prosecutions

MINNEAPOLIS – Earlier today B. Todd Jones, United States Attorney for the District of Minnesota, testified before a United States Senate subcommittee about the valuable assistance being provided to U.S. Attorney offices nationwide by the Financial Fraud Task Force, a national interagency group established by President Obama in 2009 to ensure that the corrupt conduct exposed by the financial crisis is investigated and prosecuted. The task force, comprised of more than 25 federal agencies as well as state and local partners, is the largest law enforcement coalition ever created to address fraud, be it investment fraud and securities fraud, bank fraud and mortgage fraud, or fraud of Recovery Act and TARP funds.

The efforts of the task force are being met with great success on numerous fronts, including in the area of mortgage fraud. During a three-month period in the spring of 2010, approximately 1,500 people across the country were subject to federal court action relative to mortgage fraud, with 36 of them being charged with mortgage fraud and related offenses here in the District of Minnesota. Those actions were part of Operation Stolen Dreams, a task-force-led initiative that used civil enforcement and bankruptcy proceedings in addition to criminal prosecution to confront fraudsters. (To see the first annual report of the Financial Fraud Task Force, visit www.stopfraud.gov/docs/FFETF-Report-LR.pdf.)

The fight against mortgage fraud did not end in 2010, however. To date in 2011, more than a dozen people have been charged federally with mortgage fraud and related crimes right here in the District of Minnesota. Of the prosecutions, U.S. Attorney Jones said, "Mortgage fraud devastates consumers and impedes the recovery of the housing market and, in turn, the economy as a whole. The mortgage fraud working group in the Financial Fraud Task Force has provided valuable guidance to investigators and prosecutors regarding how best to attack this crime. With its help, we will continue to pursue these criminals, who are stealing both money and the dream of home ownership for many."

Recent Cases of Interest

Hanks

On June 27, 2011, a 66-year-old Coon Rapids man pleaded guilty for his role in a $20 million mortgage fraud scheme involving 57 properties. Roger Bill Hanks pleaded guilty to one count of conspiracy to commit wire fraud in connection to this crime. He was charged on June 20, 2011

In his plea agreement, Hanks admitted that between 2004 and 2007, he conspired with six others to obtain mortgage loan proceeds based on fraudulent documentation and concealed payments. Hanks, acting at the direction of one of his unnamed co-conspirators, identified residential properties available for purchase and recruited buyers for those properties. Two of the co-conspirators allegedly told buyers they would receive payments (i.e., kickbacks) after the property transactions closed, and that they could put those payments toward the mortgages or use them to improve the properties.

One of the unnamed co-conspirators, who was a mortgage broker, helped prepare and submit false mortgage loan applications, which misrepresented the buyers' true financial situation. Based on those fraudulent documents, however, loans were approved, and loan proceeds were disbursed by wire transfer into the accounts of various title companies. Hanks and his co-conspirators then caused those title companies to disburse the proceeds into bank accounts not associated with the property buyers, the purpose being to conceal what they were actually doing with the funds. Hanks received approximately $650,000 in concealed payments from loan proceeds for eight properties he actually purchased himself. In all, the scheme resulted in lenders funding mortgage loans totaling more than $20 million.

For his crime, Hanks faces a potential maximum penalty of 20 years in prison. All sentences will be determined by a federal district court judge. Additional charges are expected in this case in the near future.

Delich

On June 21, 2011, a 45-year-old Apple Valley woman pleaded guilty to orchestrating a scheme to defraud mortgage lenders out of approximately $4.2 million relative to a Minnetonka development. Sheri Lynn Delich pleaded guilty to one count of conspiracy to commit mortgage fraud and one count of money laundering. Delich was charged on April 21, 2011, along with My Dinh Lam, age 30, of Minneapolis, and Ashley Elizabeth Prasil, age 27, of Eden Prairie. On May 19, 2011, Lam and Prasil pleaded guilty to one count of conspiracy.

In her plea agreement, Delich admitted that from December 18, 2006, through December of 2007, she conspired to defraud mortgage lenders in connection with the marketing of the Cloud 9 Sky Flats development ("Cloud 9"). Delich admitted finding buyers to apply for mortgage loans to purchase units in the development, knowing that each buyer would receive a kickback of approximately 30 percent of the reported purchase price of any unit. The kickbacks were returned to the buyers through an account controlled by Delich and funded with loan proceeds totaling in excess of $4.2. Once she received kickback money, Delich admitted taking a percentage for herself and others. More than 40 Cloud 9 units were sold through this scheme, and more than 80 percent of the loans have since defaulted.

Delich and her co-conspirators are facing a potential maximum penalty of five years in prison for conspiracy, and Delich faces an additional potential maximum penalty of 20 years for money laundering.

Spencer

On June 2, 2011, a jury found a 31-year-old Albertville man guilty for his role in orchestrating a mortgage fraud scheme that caused losses to lenders in excess of $4.6 million. Trial evidence showed that John Anthony Spencer brokered fraudulent loans that were used by recruited purchasers to buy residential real estate at inflated prices. The transactions generated proceeds that greatly exceeded what the sellers were comfortable accepting as payment for the properties. The excess money was split among the people Spencer recruited to buy the properties, Spencer, and the accomplices he needed to bring the transactions to fruition.

After a two-and-a-half week trial, the jury found Spencer guilty on one count of conspiracy to commit mortgage fraud through interstate wire, ten counts of wire fraud, and one count of money laundering. Spencer was indicted, along with two co-defendants, on December 7, 2010. According to the indictment filed in this case and the evidence presented at trial, the properties involved included six single-family homes in north Minneapolis, five residential condominium units located on Fisk Avenue in St. Paul, four condo units located on Dayton Avenue in St. Paul, a home in Albertville, Minnesota, and two investment properties located in north Minneapolis.

Trial evidence proved that Spencer, a mortgage broker at Minnesota One Mortgage, agreed to assist the owner of a five-plex condominium unit on Fisk Street in St. Paul in selling those units at inflated prices. To that end, Spencer recruited his co-defendant, Bryan Joseph Lenton, a real estate appraiser, to appraise each unit at substantially more than the owner of the unit was willing to accept as payment. After that, Spencer recruited a straw buyer to purchase the unit with loan proceeds obtained based on a fraudulent loan application, which had been prepared by Spencer and Patrick Arthur Dols, another mortgage broker at Minnesota One. Spencer also arranged for $227,800 in payments to AC Standard Construction for purported work on two of the five units. In reality, however, no work was done. In fact, AC Standard Construction was nothing more than a sham company through which those involved in the fraud received kickbacks.

In April of 2006, Spencer engaged in similar conduct with an unnamed co-conspiring real estate developer who had been unable to sell six single-family homes in north Minneapolis. In that instance, two purchasers were recruited to buy the properties, again with loan proceeds fraudulently brokered by Spencer and Dols.

Also in April of 2006, Spencer conducted the same scam with the condominium owner of the Dayton Avenue units. Following the closings for the four units there, Spencer caused more than $320,000 to be paid into a sham homeowners' association account, which was then used to pay out kickbacks to Spencer and those recruited to buy the units.

On March 8, 2011, Lenton, age 32, of Oakdale, pleaded guilty to one count of conspiracy. In his plea agreement, he admitted providing false appraisals for properties, inflating the values to create a pool of funds to be split among him, Spencer, and the straw buyers. On March 1, 2011, Dols, age 38, of Minneapolis, pleaded guilty to one count of conspiracy. In his plea agreement, he admitted his role in the conspiracy was to take loan applications in the straw buyers' names–but filled out fraudulently by Spencer–and find lenders willing to make loans based on that false information. For their crimes, Dols and Lenton face a potential maximum penalty of five years in prison.

Spencer also was convicted of bank fraud. Specifically, he defrauded Anoka Hennepin Credit Union by borrowing more than $700,000 from that institution to purchase his home in Albertville, knowing he was going to take $73,000 at closing for himself without the credit union's knowledge. He also used phantom equity to secure second mortgages on two investment properties.

For his crimes, Spencer faces a potential maximum penalty of five years in prison on the conspiracy charge, 20 years on each wire fraud count, and ten years for money laundering. He faces a potential penalty of 30 years in prison on the bank fraud charge.

Chaika

On May 24, 2011, a jury convicted a 44-year-old Burnsville man of conspiring with others to bilk mortgage lenders out of more than $43 million. Following a six-day trial, the jury found Troy David Chaika guilty on seven counts of wire fraud, three counts of mail fraud, and one count of conspiracy to commit wire fraud and mail fraud. Chaika was indicted on April 12, 2010.

The indictment filed in this case and the evidence presented at trial indicated that between 2005 and 2008, Chaika conspired with others, including Dustin Lee LaFavre, who was prosecuted in a separate action, to obtain money fraudulently through more than 100 residential property transactions. To further this scheme, Chaika and LaFavre negotiated with builders of new properties as well as owners of existing properties to buy both single pieces of property and property groupings, known as “bulk purchases,” at greatly reduced prices. Chaika and LaFavre then solicited real estate purchasers by promising they would receive large kickbacks from lenders’ funds.

Chaika and LaFavre failed to tell potential buyers about the reduced prices they had negotiated for the properties, choosing instead to quote them the grossly inflated prices. By charging buyers the higher prices, Chaika and LaFavre acquired enough cash from loan proceeds to pay the kickbacks and still have money left for themselves and their co-conspirators. Once a potential buyer was recruited through this scheme, Chaika and LaFavre, or someone working on their behalf, drafted a purchase agreement that reflected the inflated sale price only and failed to disclose to lenders the kickback amount to the buyer. Occasionally, Chaika, LaFavre, or someone working for them drafted a so-called addendum to the purchase agreement, setting forth the planned kickback, or “pay-out,” to the buyer, but that document was never provided to the lender.

In several instances, Chaika and LaFavre, or others on their behalf worked with buyers and mortgage loan officers to prepare false documents for use in the application process. In addition, Chaika and LaFavre sometimes loaned buyers money for down payments or to pad their bank balances while the application process was pending. Because of those material misrepresentations, numerous lenders agreed to fund mortgage loans for the purchase of the residential properties. Furthermore, after the mortgage loans were secured, property title companies prepared documents and handled closings based on the fraudulent information provided by Chaika and LaFavre or others on their behalf.

For his crimes, Chaika faces a potential maximum penalty of 20 years in federal prison on each count. On December 7, 2009, Dustin Lee LaFavre pleaded guilty to one count of conspiracy and awaits sentencing.

Hillard

On April 26, 2011, a former loan officer for Wells Fargo Bank pleaded guilty to participating in a $4.3 million mortgage fraud scheme. Larry Gene Hillard, age 56, of Maple Grove, pleaded guilty to one count of conspiracy to commit wire fraud. In his plea agreement, Hillard admitted that between 2007 and August 21, 2008, he participated in 12 fraudulent transactions with Truang Quang Tran and Thanh Van Ngo, owners of Invescorp. The loan amounts for the 12 properties involved in this fraud scheme totaled more than $4.3 million. The loss amount was more than $1.4 million. All involved are awaiting sentencing.

Claus

On April 15, 2011, a 49-year-old Champlin woman pleaded guilty to her role in a mortgage fraud scheme involving at least 200 properties, principally in north Minneapolis, and mortgage proceeds of approximately $35 million. Gayle Deann Claus pleaded guilty to one count of conspiracy to commit mail and wire fraud in connection to the crime. In her plea agreement, Claus admitted that from 2004 through 2007, she conspired with others to obtain loan proceeds by making false representations and promises and withholding material information about residential property purchases orchestrated by agents of TJ Waconia, a former Roseville real estate company. A number of other people, including the owners of TJ Waconia, were previously prosecuted in this case and, like Claus, are awaiting sentencing.

Bork Brothers

On March 9, 2011, two brothers pleaded guilty to orchestrating a $4 million mortgage fraud scheme that defrauded 24 area lenders. Baretta Dean Bork, age 35, of Mound, and Xavier Willis Bork, age 32, of Eden Prairie, pleaded guilty to one count of conspiracy to commit mortgage fraud through the use of wires and income tax refund fraud. The defendants were charged on January 31, 2011. In their plea agreements, the men admitted that between December of 2003 and March of 2008, they engaged in a scheme that resulted in more than $4 million in losses to mortgage lenders. The brothers worked as loan officers in several mortgage brokerage companies. They are awaiting sentencing.

McDavids

On January 26, 2011, a 36-year-old Savage man pleaded guilty to participating in a $13 million mortgage fraud scheme that involved no fewer than 25 properties in Prior Lake, Savage, and Minnetonka, among other Minnesota communities. Ericvan Anthony McDavid specifically pleaded guilty to one count of wire fraud. He was indicted, along with two co-defendants, on June 15, 2010. In a related case, McDavid's sister, Renee Lynise McDavid, age 38, of Brooklyn Park, pleaded guilty to one count of conspiracy to commit wire fraud. She was charged on January 19, 2011.

In his plea agreement, Ericvan McDavid admitted that between April of 2005 and February of 2009, he conspired to obtain loan proceeds fraudulently by making false representations and promises as well as by withholding material information. During that time, McDavid was either an owner or co-owner of several businesses, including EVM Properties, Skyy Realty, and Universal, Inc., through which he bought, sold, and managed real estate.

In her plea agreement, Renee McDavid admitted participating in the scheme from 2006 through 2008. In her capacity as a licensed real estate agent and mortgage broker, she was responsible for losses incurred in five of the 25 property transactions noted above.

Ericvan McDavid's two co-defendants, Larry Africanus Hutchinson, age 39, of St. Paul, and Jerone Ian Mitchell, age 35, of Minneapolis, have pleaded guilty to one count of conspiracy to commit wire fraud. All are awaiting sentencing.

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